

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.11988 of 2017

K.Muruganandam

... Petitioner

vs.

1. The District Collector,
The Collectorate,
Namakkal District.
 2. The District Revenue Officer,
The Collectorate,
Namakkal District.
 3. The Divisional Engineer,
Highways Department,
Namakkal District.
 4. The Assistant Divisional Engineer,
Highways Department,
Namakkal District.
 5. The Revenue Divisional Officer,
RDO Office,
Tiruchengode,
Namakkal District.
 6. The Thasildar,
Taluk Office,
Thiruchengode,
Namakkal District.
 7. The Road Contractor,
C/o. The Asst. Divisional Engineer,
Highways Department,
Namakkal District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents not to evict and demolish the Petitioner's entire house property situated at No.6/122, Unjanai Village and Post, Thiruchengode Taluk, Namakkal District, comprised in Natham Survey No.98/4-1 of Unjanai Village, totally admeasuring 205 sq. metres.

For Petitioner : Mr.V.Vargees Amal Raja

For Respondents 1 to 6 : Mr.A.N.Thambidurai,
Special Government Pleader

For 7th Respondent : No appearance

O R D E R

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Special Government Pleader appearing for the Respondents 1 to 6. In respect of the 7th Respondent, though notice through Court was served on 22.05.2017, there is no appearance on his behalf either in person or through Counsel.

2. According to the Petitioner, he is residing at No.6/122, Unjanai Village and Post, Thiruchengode Taluk, Namakkal District, comprised in Natham Survey No.98/4-1 of Unjanai Village, totally admeasuring 205 sq. metre. The said property was purchased by his father and he was issued with Patta No.308, dated 23.06.1993. His father expired on 01.07.2016 and thereafter, the Petitioner is in peaceful possession and enjoyment of the property.

3. The grievance of the Petitioner is that the Respondent/authorities decided to expand the road between Namakkal and Thiruchengode and his house is situated on the eastern side of the said road. The 3rd, 4th and 5th Respondents had measured his property and demolished a portion of his property without any prior information stating that they need a portion of his property for the expansion of the said road, in the interest of larger public. The 7th Respondent/Road Contractor, Highways Department, threatened him by saying that the entire property is required for him to park the vehicles. The 7th Respondent also threatened that he will demolish the Petitioner's entire house, as he requires the said house property for his Parking Yard. If the 7th Respondent is allowed to demolish the Petitioner's entire house for parking his vehicle, his entire family will be required to stand on the road.

4. It comes to be known that on 10.04.2017, the Petitioner had approached the 3rd Respondent's Office, who informed that they are not in a position to help him and no details of the Special Tahsildar and the 7th Respondent/Contractor were provided to him. The plea taken on behalf of the Petitioner is that there are vacate Government space available to park their vehicles, but they are showing undue interest in demolishing his property. On 11.04.2017, he had addressed a representation to the Respondent that no action has been taken so far by the concerned authorities. Hence, the Petitioner has filed the present Writ Petition praying for passing of an order in directing the Respondents not to evict and demolish his entire house property situated at No.6/122, Unjanai Village and Post, Thiruchengode Taluk, Namakkal District, comprised in Natham Survey No.98/4-1 of Unjanai Village, totally admeasuring 205 sq. metres.

5. At this stage, Learned Special Government Pleader appearing on behalf of Respondents 1 to 6 informs this Court that the 4th Respondent/Assistant Divisional Engineer, Highways, Namakkal District, at paragraph 7 of his counter, had observed as follows:

"7. It is respectfully submitted that the portion that is required for expansion of the road has been taken possession and demolition being done, which has been admitted by the Petitioner also. While so, when neither this respondent nor any other respondent has no inclination to take possession of other portions owned by the petitioner, naturally this Writ Petition deserves to be dismissed. In case, the Government requires any portion that would be carried out only under due process of Law as has been enunciated in the State Highways Act as well as Land Acquisition Act."

6. Apart from that, the Learned Special Government Pleader brings it to the notice of this Court that the Writ Petition is filed by the Petitioner only to stop expansion of road work and giving trouble to the Respondents through the Court as well. Further, the 7th Respondent nor any other Respondents never informed that the entire property owned by the Petitioner was required for parking their vehicles. Moreover, there is no need to park the vehicles in the Petitioner's house property.

7. Considering the fact that the 4th Respondent in his counter had come out with a stand that a portion that is required for expansion of road was taken possession and demolition being made, was admitted by him and in case, the Government requires any portion of the Petitioner's property, that would be carried out only under due process of law as per the Tamil Nadu Highways Act, 2001 and as per the Right to Fair Compensation Act and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, this Court, recording the averments made in paragraph 7 of the counter affidavit of the 4th Respondent, referred to supra, disposes of the present Writ Petition by observing that before taking possession of any portion of the Petitioner's property, the authorities concerned shall put the Petitioner on notice and thereafter, proceed in accordance with law. No costs. Consequently, connected W.M.P.No.12876 of 2017 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

(aeb)

To:

1. The District Collector,
The Collectorate,
Namakkal District.
2. The District Revenue Officer,
The Collectorate,
Namakkal District.
3. The Divisional Engineer,
Highways Department,
Namakkal District.
4. The Assistant Divisional Engineer,
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6. The Thasildar,
Taluk Office,
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Namakkal District.
7. The Road Contractor,
C/o. The Asst. Divisional Engineer,
Highways Department,
Namakkal District.

+1cc to Government Pleader Sr.no.18173

+1cc to Mr.V.Vargees Amalraja, Advocate Sr.No.18079

sm:21.3.2018

Order in
W.P.No.11988 of 2017

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